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05 JUN 30 AM 10:32

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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10 UNITED STATES MAGISTRATE COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION
13

14)
15 UNITED STATES OF AMERICA,)
16 Plaintiff,)
17 v.)
18 ZIBU GAO et al (TIFFANY STUART),)
19 Defendant.)
20)

No. CR 3-05-70262 JL

STIPULATION CONTINUING DATE OF
PRELIMINARY HEARING OR
ARRAIGNMENT AND EXCLUDING
TIME UNDER THE SPEEDY TRIAL ACT
CALCULATION (18 U.S.C. §
3161(h)(8)(A)) AND ~~[PROPOSED]~~
ORDER

21 On May 24, 2005, the parties in this case appeared before the Court and Ms. Stuart waived
22 her right to a preliminary hearing or arraignment within twenty days of her initial appearance.
23 Based on Ms. Stuart's waiver, the parties scheduled the next appearance in this matter for June
24 30, 2005 at 9:30 a.m. before Judge James for a preliminary hearing or arraignment.

25 The parties request this continuance on the grounds that: (1) the United States has not yet
26 provided all relevant discovery to Mr. Cohen, counsel for Ms. Stuart; (2) Once Mr. Cohen
27 receives the discovery, he will require adequate time to review this discovery and further discuss
28 it with Ms. Stuart; (3) the United States and Mr. Cohen are exchanging information that may

1 have an impact Ms. Stuart's disposition; and (4) Mr. Cohen believes that postponing the
 2 preliminary hearing is in Ms. Stuart's best interest, and that it is not in his client's interest for the
 3 United States to indict the case before the June 30, 2005 preliminary hearing date. The parties
 4 agree that the requested continuance is necessary for continuity of defense counsel and effective
 5 preparation of defense counsel.

6 The parties stipulate and agree that the above-stated reasons constitute good cause to support
 7 a continuance under Rule 5.1 of the Federal Rules of Criminal Procedure and 18 U.S.C. § 3060.
 8 The parties also stipulate and agree that the stated reasons support a continuance of the
 9 preliminary hearing or arraignment date under Title 18, United States Code, Sections 3161(b)
 10 and 3161(h)(8)(B)(iv) and that the failure to grant the requested continuance would deny the
 11 defendant continuity of counsel and deny counsel for the defense the reasonable time necessary
 12 for effective preparation, taking into account the exercise of due diligence.

13 IT IS SO STIPULATED.

14
 15 DATED: June 24, 05

DENEE A. DILUIGI
 Special Assistant United States Attorney

16
 17
 18 DATED: 6/24/05

JOSH COHEN
 Attorney for Ms. Stuart

21 ORDER

22 For the foregoing reasons, the Court finds that good cause is shown and concludes that the
 23 continuance is proper under Rule 5.1 of the Federal Rules of Criminal Procedure and 18 U.S.C. §
 24 3060.

25 The Court FURTHER ORDERS that an exclusion of time between May 24, 2005 and June
 26 30, 2005, is warranted under the Speedy Trial Act because a failure to grant the continuance
 27 would deny the defendant continuity of counsel and would unreasonably deny defense counsel
 28 and the reasonable time necessary for effective preparation, taking into account the exercise of

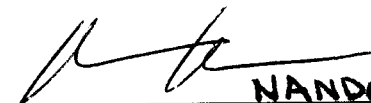
1 due diligence. 18 U.S.C. § 3161(h)(8)(B)(iv). The Court finds that the ends of justice served by
2 excluding time under the Speedy Trial Act outweigh the best interest of the public and the
3 defendant in a speedy trial and in the prompt disposition of criminal cases. Id. § 3161(h)(A).
4 The Court, therefore, concludes that this exclusion of time is proper pursuant to 18 U.S.C. §
5 3161(h)(8)(B)(iv).

6 The defendant is HEREBY ORDERED to appear before Judge James on June 30, 2005 at
7 9:30 a.m.

8 IT IS SO ORDERED.

9
10 DATED:

June 27, 2005


NANDOR VADAS
~~ELIZABETH D. LAPORTE~~
United States Magistrate Judge